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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,926	05/01/2006	Shinya Abe	2006_0661A	6854
52349 7590 03/18/2009 WENDEROTH, LIND & PONACK L.L.P. 1030 15th Street, N.W. Suite 400 East Washington, DC 20005-1503				
EXAMINER				
CHU, KIM KWOK				
ART UNIT		PAPER NUMBER		
2627				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/577,926

Applicant(s)

ABE ET AL.

Examiner

Kim-Kwok CHU

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE filed on 3/10/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44 and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/1/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Remarks

1. Applicant's RCE and Remarks after Final Rejection filed on March 10, 2009 have been fully considered. The amended limitation "a specific information layer" is not clear on how "specific" it is. Since the structure of the "specific information layer" is not stated in the claim, the prior art of Shoji et al. (U.S. Patent 6,973,020) is again cited as a reference because Shoji's recording medium has two recording layers and one of the layer can be considered as a specific information layer as required in Applicant's Claim 44.

Continued Examination after Final Rejection

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 10, 2009 has been entered.

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Drawings Objected To, Details Not Shown

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the amended feature "a specific information layer" must be shown or the feature canceled from the claims. No new matter should be entered.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 44 and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 44, line 12, the amended phrase "a specific information layer" is not clear. In the claimed recording medium, information is recorded either in a land track or a groove. In other words, it is not clear whether the amended limitation "specific information layer" is a recording layer referring to the claimed land track or groove track.

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The claim 45 not specifically mentioned above is rejected because this claim is dependent on the rejected base claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless -
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.*

7. Claims 44 and 45 are rejected under 35 U.S.C. § 102(e) as being anticipated by Shoji et al. (U.S. Patent 6,973,020).

8. Shoji teaches an information recording medium having all of the structures as recited in claims 44 and 45. For example, Shoji teaches the following:

(a) with respect to Claim 44, the information recording medium 100 for having information recorded thereto according to a wobble formed (Fig. 4) thereon and according to a recording system/format (Fig. 4; recording system is a recording format) that is one of a groove-recording system and a land-recording system and for having information reproduced therefrom (Fig. 4; groove tracks and land tracks are formed in a plurality of

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layers), the information being recorded thereto and reproduced therefrom using an incident laser beam (Figs. 5 and 6; step S602), the information recording medium comprising: land track 201, 301 (Fig. 4) configured to have information recorded thereto; and a groove track 202, 302 (Fig. 4) located adjacent to the land track and closer to the incident laser beam than the land track and configured to have information recorded thereto (Fig. 1; laser light beam is irradiated from under the medium 100 and land tracks are higher than groove tracks), wherein, when information is recorded to a recording track, being one of the land track and the groove track, the information is recorded according to a wobble formed on the recording track (Fig. 4; tracks are wobbling shape), wherein the recording system (format) used at a specification information layer 102/104 (Fig. 1; land track or groove track) of the recording medium 100 (Fig. 1) is selected from either the groove recording system or the land recording system (one of the layer is used for groove/land recording), the selected recording system being the only recording system used at the specific information layer (Fig. 4; groove recording is selected and data only recorded in the groove and not alternatively recorded in groove, land, groove land etc.), wherein, when the information is recorded onto the recording track of the specific information layer 102/104 (Fig.

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1) according to the groove-recording system, a physical direction toward which the wobble formed on the recording track 202 starts a first wobble deviation is a mirror reverse of a situation when the information is recorded onto the recording track 301 of the information recording medium according to the land-recording system (Fig. 4; tracks 202 and 301 are mirror image of each others), wherein, when the information is recorded onto the recording track of the specific information layer 102/104 according to the land recording system 301, the physical direction toward which the wobble formed on the recording track starts the first wobble deviation is a mirror reverse of a situation when the information is recorded onto the recording track 202 of the information recording medium according to the groove-recording system (Fig. 4; tracks 202 and 301 are mirror image of each others), and wherein a polarity of a wobble signal representing the wobble formed on the recording track of the specific information layer according to the groove-recording system 202 is identical to a polarity of a wobble signal representing the wobble formed on the recording track 301 of the specific information layer according to the land-recording system (Fig. 5; wobble polarities at the start position of either groove track or land track are the same; column 10, lines 49-61).

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(b) with respect to Claim 45, the information is reproduced from the groove track 202, 201 by tracking on the groove track when the information is recorded to the specific information layer 102/104 according to the groove-recording system, and wherein the information is reproduced from the land track 201, 301 by tracking on the land track when the information is recorded to the specific information layer according to the land- recording system (Figs 4 and 5).

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9. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kim CHU whose telephone number is (571) 272-7585 between 9:30 am to 6:00 pm, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen, can be reached on (571) 272-7579.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll free).

/Kim-Kwok CHU/
Examiner AU2627
March 13, 2009
(571) 272-7585

/HOA T NGUYEN/

Supervisory Patent Examiner, Art Unit 2627